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FISH AND GAME
COMMISSION

Ad Hoc Committee

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California Fish and Game Commission
Sacramento, CA 95814

re: MLPA flawed CEQA process -- lack of notice and non-availability of documents

Dear Sirs:

The Commission and the Department have not provided access to CEQA documents as they should have, and my and others ability to offer comments to this process have been unfairly curtailed. Not only do I feel deprived of my duty and obligation to participate fully in the MLPA CEQA process, but I feel my constitutional right to due process may have been denied as well. I have tried to exhaust all avenues of administrative relief, as of yet, to no avail.

I believe that this EIR should not be certified. There are serious flaws in notification, distribution and availability of documents, in addition to flaws in content that will be addressed separately. At the least, it needs to be re-circulated. We believe it is so flawed that it needs to be re-written and re-noticed properly with greater effort for public participation.

As you know, public participation is an essential part of the CEQA process. The law states that it *is not just the right but the responsibility, the duty, the obligation of every California citizen to protect our environment, to take seriously public participation; not just to complain, not just to criticize after decisions are made, but to participate and assist decisionmakers by providing testimony.* The Lead Agency (Fish and Game Commission) is supposed to *seek out* public testimony in order to check for accuracy, detect omissions, disclose agency analysis, discover public concerns and to solicit counterproposals. I feel thwarted.

The details: Last year, I spoke to DF&G staff members regarding CEQA notification. I was assured that if I wrote a letter to the Department of Fish and Game and to the Resources Agency, requesting to be notified of any actions taken with regard to CEQA (preparation of EIRs, scoping sessions and CEQA hearings), that I would be put on a list and notified. ***I did so, by FAX, but was not notified regarding any of the MLPA CEQA actions by either the DF&G or the Resources Agency.*** I did not write comments, knowing nothing about the scoping sessions, preparation of the DEIR and the public comment period.

I recently found out about the MLPA Initiative and immediately asked Commission and DF&G staff where you were in the CEQA process, and where documents were available. I was told in the libraries and the Internet. I explained that the Internet is of no use to me since PDF files are typically huge and my computer cannot open them, so that hard copy at the library was essential. However, to date, in spite of numerous requests and assurances (Resources Agency staff,

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Commission Consultants, DF&G and Commission staff by phone and at Bodega Bay and Half Moon Bay Phase 2 meetings), I still find no DEIR on the MLPA in any library in Sonoma County (certainly an affected area). Also, I called the San Luis Obispo, Santa Barbara, and Morro Bay libraries and found no DEIR in any of them either!. One had recently received, but, I believe, had not yet catalogued, the Response to Comments, but had no DEIR. I asked the DF&G to FAX me a list of the libraries where documents had been sent, but I have not received that either. Finally, on Thursday, April 5, a copy of only the Response to Comments was available at the Santa Rosa Library. **However, there was still no copy of the DEIR.** *As you can imagine, understanding the comments and responses is not possible without the DEIR.*

I do not know whether CEQA requires a public hearing on the DEIR, but I believe the Guidelines certainly encourage it. To the best of my knowledge there was no hearing on the DEIR after it was produced. I think there should have been. **We do not advocate the minimum legal requirement!** We think that a level of public participation that assures a reasonable outcome is appropriate.

There was also no mention on your April 13th Agenda (that the Commission FAXed to me) of certification of the EIR for the MLPA. When was it added to the agenda? Do you think that the public has had enough time to learn that you may be planning to certify and approve the EIR on April 13th? Do you think the public thinks you and the "Blue Ribbon Task Force" have had enough time to read and consider community comments to the DEIR and the adequacy of the consultants' responses? I don't.

Certifying this EIR and selecting a project at this time jeopardizes not only the Phase One project, but your credibility regarding Phase 2.

Sincerely,


Ann Maurice